IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 29107 of 1995

Between:

C. Thippe Swamy S/o. G. Chandrashekarappa
R/o. Kalavalli Village, Bommanahal Mandal Ananthapur District.

..... PETITIONER

AND

1 Executive Engineer HLC (LOC) Division,
Ananthapur.
2 Superintending Engineer I.D., TBP.HLC.
Circle Ananthapur.
3 Ballanagudem Rudra Gouda (Dismissed)
R/o. Ballanaguddem Village, Bommanahal Mandal, Ananthapur Dist.
R3 Dismissed for default as per court order dt 7/2/03.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of Writ of Mandamus, declaring the decision of the Respondents to provide off take sluice at the revised location at KM 9.16 of 9th distributory of Bollanaguddem branch and to excavate a channel to connect with the existing 5L(A) F.C. through the lands of the petitioners as illegal, arbitrary, without jurisdiction and direct the Respondents not to excavate the Irrigation channel through the lands of the petitioners bearing Survey Nos. 111 and 112 of Kalavally village, Bommanahal Mandal, Ananthapur District.

Counsel for the Petitioner: MR.T.A.GOUD

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following:

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Oral order:

Even though the matter was passed over to 2-15 P.M. neither the petitioner nor his counsel appeared nor is there any representation made on their behalf. Therefore, the writ petition is being disposed of on the basis of the material available on record. Heard the learned Government Pleader for Irrigation for the respondents.

This writ petition is filed praying to declare the decision of the respondents in providing off take sluice at the revised location at KM 9.16 of 9th distributory of Bollanagudem Branch and to excavate a channel to connect the existing 5L(A) F.C. through the lands of the petitioners as illegal and arbitrary and consequently direct the respondents not to excavate the Irrigation Channel through the lands of the petitioners in Sy. Nos. 111 and 112 of Kalavally village, Bommanahal Mandal, Anantapur District.

The petitioner claims to be the owner of agricultural land in Sy. Nos. 111 112 of Kalavally village, Bommanahal Mandal, Anantapur District. It is his case that the 2nd respondent without issuing any notice and without acquiring the lands under the provisions of the Land Acquisition Act, 1894, had accorded permission for escavation of 5L(A) field channel in the land in
Sy. Nos. 111, 112 and 116 to 117 of Kalavally village at the cost of the ryots of Ballanagudem village. The petitioner states that if the impugned excavation is allowed through his lands, there would be seepage of water, thereby affecting his entire extent of land. Hence, he seeks directions to the respondents not to excavate the field channel through his lands.

The respondents filed counter. It is stated that they have not excavated the field channel through the land of the petitioner. It is only on apprehension that if the channel is excavated that there would be seepage of water into his lands, the petitioner filed the present writ petition. It is further stated that already some persons through whose lands, excavation was undertaken, had filed suits on the file of the

District Munsif, Rayadurg, for grant of mandatory injunction. The said Court granted status quo orders and also appointed an Advocate Commissioner to report the physical position. It is stated that the field channel was excavated for the benefit of all the villagers whose lands are located at the tail end, and that too after approval of the competent authority. At any rate, it is stated that as the channel had not been excavated through the land of the petitioner, he should not have any grievance.

Inasmuch as it is stated in the counter-affidavit that the respondents have not excavated the field channel through the land of the petitioners and that it has been excavated for the benefit of the villagers whose lands are located at the tail end, and that too after approval of the competent authority and that the petitioner has filed the writ petition merely on apprehension that if the field channel is excavated his lands would be damaged on account of seepage, and the rights of the petitioner having not been affected in any way by the excavation of the impugned field channel, I am of the considered opinion that the petitioner has no grievance to maintain the writ petition.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 2-9-2004.

KSR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Executive Engineer HLC (LOC) Division,

Ananthapur.

2 The Superintending Engineer I.D., TBP.HLC.
Circle Ananthapur.

3. Two C.Cs. to the Government Pleader for Irrigation & Comm Area Dev.

High Court Buildings, Hyderabad. (OUT)